

HOUSE BILL No. 2392

By Committee on Taxation

2-24

1 AN ACT concerning income taxation; relating to certain modifications of
2 Kansas adjusted gross income relative to passive income; amending
3 K.S.A. 2014 Supp. 79-32,117 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 79-32,117 is hereby amended to read as
7 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
8 means such individual's federal adjusted gross income for the taxable year,
9 with the modifications specified in this section.

10 (b) There shall be added to federal adjusted gross income:

11 (i) Interest income less any related expenses directly incurred in the
12 purchase of state or political subdivision obligations, to the extent that the
13 same is not included in federal adjusted gross income, on obligations of
14 any state or political subdivision thereof, but to the extent that interest
15 income on obligations of this state or a political subdivision thereof issued
16 prior to January 1, 1988, is specifically exempt from income tax under the
17 laws of this state authorizing the issuance of such obligations, it shall be
18 excluded from computation of Kansas adjusted gross income whether or
19 not included in federal adjusted gross income. Interest income on
20 obligations of this state or a political subdivision thereof issued after
21 December 31, 1987, shall be excluded from computation of Kansas
22 adjusted gross income whether or not included in federal adjusted gross
23 income.

24 (ii) Taxes on or measured by income or fees or payments in lieu of
25 income taxes imposed by this state or any other taxing jurisdiction to the
26 extent deductible in determining federal adjusted gross income and not
27 credited against federal income tax. This paragraph shall not apply to taxes
28 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
29 amendments thereto, for privilege tax year 1995, and all such years
30 thereafter.

31 (iii) The federal net operating loss deduction.

32 (iv) Federal income tax refunds received by the taxpayer if the
33 deduction of the taxes being refunded resulted in a tax benefit for Kansas
34 income tax purposes during a prior taxable year. Such refunds shall be
35 included in income in the year actually received regardless of the method
36 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall

1 be deemed to have resulted if the amount of the tax had been deducted in
2 determining income subject to a Kansas income tax for a prior year
3 regardless of the rate of taxation applied in such prior year to the Kansas
4 taxable income, but only that portion of the refund shall be included as
5 bears the same proportion to the total refund received as the federal taxes
6 deducted in the year to which such refund is attributable bears to the total
7 federal income taxes paid for such year. For purposes of the foregoing
8 sentence, federal taxes shall be considered to have been deducted only to
9 the extent such deduction does not reduce Kansas taxable income below
10 zero.

11 (v) The amount of any depreciation deduction or business expense
12 deduction claimed on the taxpayer's federal income tax return for any
13 capital expenditure in making any building or facility accessible to the
14 handicapped, for which expenditure the taxpayer claimed the credit
15 allowed by K.S.A. 79-32,177, and amendments thereto.

16 (vi) Any amount of designated employee contributions picked up by
17 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
18 and amendments thereto.

19 (vii) The amount of any charitable contribution made to the extent the
20 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
21 32,196, and amendments thereto.

22 (viii) The amount of any costs incurred for improvements to a swine
23 facility, claimed for deduction in determining federal adjusted gross
24 income, to the extent the same is claimed as the basis for any credit
25 allowed pursuant to K.S.A. 2014 Supp. 79-32,204, and amendments
26 thereto.

27 (ix) The amount of any ad valorem taxes and assessments paid and
28 the amount of any costs incurred for habitat management or construction
29 and maintenance of improvements on real property, claimed for deduction
30 in determining federal adjusted gross income, to the extent the same is
31 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
32 and amendments thereto.

33 (x) Amounts received as nonqualified withdrawals, as defined by
34 K.S.A. 2014 Supp. 75-643, and amendments thereto, if, at the time of
35 contribution to a family postsecondary education savings account, such
36 amounts were subtracted from the federal adjusted gross income pursuant
37 to ~~paragraph (xv) of subsection (e) of K.S.A. 79-32,117(c)(xv)~~, and
38 amendments thereto, or if such amounts are not already included in the
39 federal adjusted gross income.

40 (xi) The amount of any contribution made to the same extent the
41 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2014
42 Supp. 74-50,154, and amendments thereto.

43 (xii) For taxable years commencing after December 31, 2004,

1 amounts received as withdrawals not in accordance with the provisions of
2 K.S.A. 2014 Supp. 74-50,204, and amendments thereto, if, at the time of
3 contribution to an individual development account, such amounts were
4 subtracted from the federal adjusted gross income pursuant to ~~paragraph~~
5 ~~(xii)~~ of subsection (c)(*xiii*), or if such amounts are not already included in
6 the federal adjusted gross income.

7 (xiii) The amount of any expenditures claimed for deduction in
8 determining federal adjusted gross income, to the extent the same is
9 claimed as the basis for any credit allowed pursuant to K.S.A. 2014 Supp.
10 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

11 (xiv) The amount of any amortization deduction claimed in
12 determining federal adjusted gross income to the extent the same is
13 claimed for deduction pursuant to K.S.A. 2014 Supp. 79-32,221, and
14 amendments thereto.

15 (xv) The amount of any expenditures claimed for deduction in
16 determining federal adjusted gross income, to the extent the same is
17 claimed as the basis for any credit allowed pursuant to K.S.A. 2014 Supp.
18 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
19 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
20 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

21 (xvi) The amount of any amortization deduction claimed in
22 determining federal adjusted gross income to the extent the same is
23 claimed for deduction pursuant to K.S.A. 2014 Supp. 79-32,227, 79-
24 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
25 thereto.

26 (xvii) The amount of any amortization deduction claimed in
27 determining federal adjusted gross income to the extent the same is
28 claimed for deduction pursuant to K.S.A. 2014 Supp. 79-32,256, and
29 amendments thereto.

30 (xviii) For taxable years commencing after December 31, 2006, the
31 amount of any ad valorem or property taxes and assessments paid to a state
32 other than Kansas or local government located in a state other than Kansas
33 by a taxpayer who resides in a state other than Kansas, when the law of
34 such state does not allow a resident of Kansas who earns income in such
35 other state to claim a deduction for ad valorem or property taxes or
36 assessments paid to a political subdivision of the state of Kansas in
37 determining taxable income for income tax purposes in such other state, to
38 the extent that such taxes and assessments are claimed as an itemized
39 deduction for federal income tax purposes.

40 (xix) For all taxable years beginning after December 31, ~~2012~~ 2014,
41 the amount of any: (1) Loss from business as determined under the federal
42 internal revenue code and reported from schedule C and on line 12 of the
43 taxpayer's form 1040 federal individual income tax return, *but not*

1 *including passive loss identified on line 16 of the taxpayer's federal form*
2 *8582 and reported on the taxpayer's form 1040 federal individual income*
3 *tax return from schedule C of such return; (2) loss from rental real estate,*
4 *royalties, partnerships, S corporations, except those with wholly owned*
5 *subsidiaries subject to the Kansas privilege tax, estates; and trusts, residual*
6 *interest in real estate mortgage investment conduits and net farm rental as*
7 *determined under the federal internal revenue code and reported from*
8 *schedule E and on line 17 of the taxpayer's form 1040 federal individual*
9 *income tax return, but not including passive loss identified on line 16 of*
10 *the taxpayer's federal form 8582 and reported on the taxpayer's form 1040*
11 *federal individual income tax return from schedule E of such return; and*
12 *(3) farm loss as determined under the federal internal revenue code and*
13 *reported from schedule F and on line 18 of the taxpayer's form 1040*
14 *federal income tax return, but not including passive loss identified on line*
15 *16 of the taxpayer's federal form 8582 and reported on the taxpayer's form*
16 *1040 federal individual income tax return from schedule F of such return;*
17 *all to the extent deducted or subtracted in determining the taxpayer's*
18 *federal adjusted gross income. For purposes of this subsection, references*
19 *to the federal form forms 1040 and 8582 and federal schedule C, schedule*
20 *E, and schedule F, shall be to such form forms and schedules as they*
21 *existed for tax year 2011, 2014, and as revised thereafter by the internal*
22 *revenue service.*

23 (xx) For all taxable years beginning after December 31, 2012, the
24 amount of any deduction for self-employment taxes under section 164(f)
25 of the federal internal revenue code as in effect on January 1, 2012, and
26 amendments thereto, in determining the federal adjusted gross income of
27 an individual taxpayer, to the extent the deduction is attributable to income
28 reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's
29 form 1040 federal income tax return.

30 (xxi) For all taxable years beginning after December 31, 2012, the
31 amount of any deduction for pension, profit sharing, and annuity plans of
32 self-employed individuals under section 62(a)(6) of the federal internal
33 revenue code as in effect on January 1, 2012, and amendments thereto, in
34 determining the federal adjusted gross income of an individual taxpayer.

35 (xxii) For all taxable years beginning after December 31, 2012, the
36 amount of any deduction for health insurance under section 162(l) of the
37 federal internal revenue code as in effect on January 1, 2012, and
38 amendments thereto, in determining the federal adjusted gross income of
39 an individual taxpayer.

40 (xxiii) For all taxable years beginning after December 31, 2012, the
41 amount of any deduction for domestic production activities under section
42 199 of the federal internal revenue code as in effect on January 1, 2012,
43 and amendments thereto, in determining the federal adjusted gross income

1 of an individual taxpayer.

2 (xxiv) For taxable years commencing after December 31, 2013, that
3 portion of the amount of any expenditure deduction claimed in
4 determining federal adjusted gross income for expenses paid for medical
5 care of the taxpayer or the taxpayer's spouse or dependents when such
6 expenses were paid or incurred for an abortion, or for a health benefit plan,
7 as defined in K.S.A. 2014 Supp. 65-6731, and amendments thereto, for the
8 purchase of an optional rider for coverage of abortion in accordance with
9 K.S.A. 2014 Supp. 40-2,190, and amendments thereto, to the extent that
10 such taxes and assessments are claimed as an itemized deduction for
11 federal income tax purposes.

12 (xxv) For taxable years commencing after December 31, 2013, that
13 portion of the amount of any expenditure deduction claimed in
14 determining federal adjusted gross income for expenses paid by a taxpayer
15 for health care when such expenses were paid or incurred for abortion
16 coverage, a health benefit plan, as defined in K.S.A. 2014 Supp. 65-6731,
17 and amendments thereto, when such expenses were paid or incurred for
18 abortion coverage or amounts contributed to health savings accounts for
19 such taxpayer's employees for the purchase of an optional rider for
20 coverage of abortion in accordance with K.S.A. 2014 Supp. 40-2,190, and
21 amendments thereto, to the extent that such taxes and assessments are
22 claimed as a deduction for federal income tax purposes.

23 (c) There shall be subtracted from federal adjusted gross income:

24 (i) Interest or dividend income on obligations or securities of any
25 authority, commission or instrumentality of the United States and its
26 possessions less any related expenses directly incurred in the purchase of
27 such obligations or securities, to the extent included in federal adjusted
28 gross income but exempt from state income taxes under the laws of the
29 United States.

30 (ii) Any amounts received which are included in federal adjusted
31 gross income but which are specifically exempt from Kansas income
32 taxation under the laws of the state of Kansas.

33 (iii) The portion of any gain or loss from the sale or other disposition
34 of property having a higher adjusted basis for Kansas income tax purposes
35 than for federal income tax purposes on the date such property was sold or
36 disposed of in a transaction in which gain or loss was recognized for
37 purposes of federal income tax that does not exceed such difference in
38 basis, but if a gain is considered a long-term capital gain for federal
39 income tax purposes, the modification shall be limited to that portion of
40 such gain which is included in federal adjusted gross income.

41 (iv) The amount necessary to prevent the taxation under this act of
42 any annuity or other amount of income or gain which was properly
43 included in income or gain and was taxed under the laws of this state for a

1 taxable year prior to the effective date of this act, as amended, to the
2 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
3 the right to receive the income or gain, or to a trust or estate from which
4 the taxpayer received the income or gain.

5 (v) The amount of any refund or credit for overpayment of taxes on
6 or measured by income or fees or payments in lieu of income taxes
7 imposed by this state, or any taxing jurisdiction, to the extent included in
8 gross income for federal income tax purposes.

9 (vi) Accumulation distributions received by a taxpayer as a
10 beneficiary of a trust to the extent that the same are included in federal
11 adjusted gross income.

12 (vii) Amounts received as annuities under the federal civil service
13 retirement system from the civil service retirement and disability fund and
14 other amounts received as retirement benefits in whatever form which
15 were earned for being employed by the federal government or for service
16 in the armed forces of the United States.

17 (viii) Amounts received by retired railroad employees as a
18 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
19 228c (a)(1) et seq.

20 (ix) Amounts received by retired employees of a city and by retired
21 employees of any board of such city as retirement allowances pursuant to
22 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
23 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
24 amendments thereto.

25 (x) For taxable years beginning after December 31, 1976, the amount
26 of the federal tentative jobs tax credit disallowance under the provisions of
27 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
28 amount of the targeted jobs tax credit and work incentive credit
29 disallowances under 26 U.S.C. § 280 C.

30 (xi) For taxable years beginning after December 31, 1986, dividend
31 income on stock issued by Kansas Venture Capital, Inc.

32 (xii) For taxable years beginning after December 31, 1989, amounts
33 received by retired employees of a board of public utilities as pension and
34 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
35 and amendments thereto.

36 (xiii) For taxable years beginning after December 31, 2004, amounts
37 contributed to and the amount of income earned on contributions deposited
38 to an individual development account under K.S.A. 2014 Supp. 74-50,201
39 et seq., and amendments thereto.

40 (xiv) For all taxable years commencing after December 31, 1996, that
41 portion of any income of a bank organized under the laws of this state or
42 any other state, a national banking association organized under the laws of
43 the United States, an association organized under the savings and loan

1 code of this state or any other state, or a federal savings association
2 organized under the laws of the United States, for which an election as an
3 S corporation under subchapter S of the federal internal revenue code is in
4 effect, which accrues to the taxpayer who is a stockholder of such
5 corporation and which is not distributed to the stockholders as dividends of
6 the corporation. For all taxable years beginning after December 31, ~~2012~~
7 ~~2014~~, the amount of modification under this subsection shall exclude the
8 portion of income ~~or loss reported on schedule E and included on line 17~~
9 ~~of the taxpayer's form 1040 federal individual income tax return claimed~~
10 *as a subtraction modification pursuant to subsection (c)(xx)(2).*

11 (xv) For all taxable years beginning after December 31, 2006,
12 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
13 joint return, for each designated beneficiary which are contributed to a
14 family postsecondary education savings account established under the
15 Kansas postsecondary education savings program or a qualified tuition
16 program established and maintained by another state or agency or
17 instrumentality thereof pursuant to section 529 of the internal revenue
18 code of 1986, as amended, for the purpose of paying the qualified higher
19 education expenses of a designated beneficiary at an institution of
20 postsecondary education. The terms and phrases used in this paragraph
21 shall have the meaning respectively ascribed thereto by the provisions of
22 K.S.A. 2014 Supp. 75-643, and amendments thereto, and the provisions of
23 such section are hereby incorporated by reference for all purposes thereof.

24 (xvi) For all taxable years beginning after December 31, 2004,
25 amounts received by taxpayers who are or were members of the armed
26 forces of the United States, including service in the Kansas army and air
27 national guard, as a recruitment, sign up or retention bonus received by
28 such taxpayer as an incentive to join, enlist or remain in the armed services
29 of the United States, including service in the Kansas army and air national
30 guard, and amounts received for repayment of educational or student loans
31 incurred by or obligated to such taxpayer and received by such taxpayer as
32 a result of such taxpayer's service in the armed forces of the United States,
33 including service in the Kansas army and air national guard.

34 (xvii) For all taxable years beginning after December 31, 2004,
35 amounts received by taxpayers who are eligible members of the Kansas
36 army and air national guard as a reimbursement pursuant to K.S.A. 48-
37 281, and amendments thereto, and amounts received for death benefits
38 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
39 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and
40 amendments thereto, to the extent that such death benefits are included in
41 federal adjusted gross income of the taxpayer.

42 (xviii) For the taxable year beginning after December 31, 2006,
43 amounts received as benefits under the federal social security act which

1 are included in federal adjusted gross income of a taxpayer with federal
2 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
3 status is single, head of household, married filing separate or married filing
4 jointly; and for all taxable years beginning after December 31, 2007,
5 amounts received as benefits under the federal social security act which
6 are included in federal adjusted gross income of a taxpayer with federal
7 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
8 status is single, head of household, married filing separate or married filing
9 jointly.

10 (xix) Amounts received by retired employees of Washburn university
11 as retirement and pension benefits under the university's retirement plan.

12 (xx) For all taxable years beginning after December 31, ~~2012~~ 2014,
13 the amount of any: (1) Net profit from business as determined under the
14 federal internal revenue code and reported from schedule C and on line 12
15 of the taxpayer's form 1040 federal individual income tax return, *but not*
16 *including net passive income identified on line 4 of the taxpayer's federal*
17 *form 8582 and reported on the taxpayer's form 1040 federal individual*
18 *income tax return form schedule C of such return;* (2) net income from
19 rental real estate, royalties, partnerships, S corporations, estates; *and trusts;*
20 ~~residual interest in real estate mortgage investment conduits and net farm~~
21 ~~rental~~ as determined under the federal internal revenue code and reported
22 from schedule E and on line 17 of the taxpayer's form 1040 federal
23 individual income tax return, *but not including net passive income*
24 *identified on line 4 of the taxpayer's federal form 8582 and reported on the*
25 *taxpayer's form 1040 federal individual income tax return form schedule E*
26 *of such return;* and (3) net farm profit as determined under the federal
27 internal revenue code and reported from schedule F and on line 18 of the
28 taxpayer's form 1040 federal income tax return, *but not including net*
29 *passive income identified on line 4 of the taxpayer's federal form 8582 and*
30 *reported on the taxpayer's form 1040 federal individual income tax return*
31 *form schedule F of such return;* all to the extent included in the taxpayer's
32 federal adjusted gross income. For purposes of this subsection, references
33 to the federal ~~form forms~~ 1040 and 8582 and federal schedule C, schedule
34 E, and schedule F, shall be to such ~~form forms~~ forms and schedules as they
35 existed for tax year ~~2011~~ 2014 and as revised thereafter by the internal
36 revenue service.

37 (xxi) For all taxable years beginning after December 31, 2013,
38 amounts equal to the unreimbursed travel, lodging and medical
39 expenditures directly incurred by a taxpayer while living, or a dependent
40 of the taxpayer while living, for the donation of one or more human organs
41 of the taxpayer, or a dependent of the taxpayer, to another person for
42 human organ transplantation. The expenses may be claimed as a
43 subtraction modification provided for in this section to the extent the

1 expenses are not already subtracted from the taxpayer's federal adjusted
2 gross income. In no circumstances shall the subtraction modification
3 provided for in this section for any individual, or a dependent, exceed
4 \$5,000. As used in this section, "human organ" means all or part of a liver,
5 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
6 paragraph shall take effect on the day the secretary of revenue certifies to
7 the director of the budget that the cost for the department of revenue of
8 modifications to the automated tax system for the purpose of
9 implementing this paragraph will not exceed \$20,000.

10 (xxii) For all taxable years beginning after December 31, 2012, the
11 amount of net gain from the sale of: (1) Cattle and horses, regardless of
12 age, held by the taxpayer for draft, breeding, dairy or sporting purposes,
13 and held by such taxpayer for 24 months or more from the date of
14 acquisition; and (2) other livestock, regardless of age, held by the taxpayer
15 for draft, breeding, dairy or sporting purposes, and held by such taxpayer
16 for 12 months or more from the date of acquisition. The subtraction from
17 federal adjusted gross income shall be limited to the amount of the
18 additions recognized under the provisions of ~~paragraph (xix)~~ of subsection
19 (b)(~~xix~~) attributable to the business in which the livestock sold had been
20 used. As used in this paragraph, the term "livestock" shall not include
21 poultry.

22 (xxiii) For all taxable years beginning after December 31, 2012,
23 amounts received under either the Overland Park, Kansas police
24 department retirement plan or the Overland Park, Kansas fire department
25 retirement plan, both as established by the city of Overland Park, pursuant
26 to the city's home rule authority.

27 (d) There shall be added to or subtracted from federal adjusted gross
28 income the taxpayer's share, as beneficiary of an estate or trust, of the
29 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
30 amendments thereto.

31 (e) The amount of modifications required to be made under this
32 section by a partner which relates to items of income, gain, loss, deduction
33 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
34 amendments thereto, to the extent that such items affect federal adjusted
35 gross income of the partner.

36 Sec. 2. K.S.A. 2014 Supp. 79-32,117 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the statute book.